

United States District Court

E-FILED

NORTHERN

DISTRICT OF
FILED

CALIFORNIA

UNITED STATES OF AMERICA

2007 JAN 10 A 10:36

V.

OLIVAS-Leyva, Felisardo
(Name and Address of Defendant)RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CAL. S. J.

CRIMINAL COMPLAINT

07 70008

CASE NUMBER:

RS

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, September 20, 2006, in Santa Clara County in the Northern District of California defendant(s) was, (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
facts:
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, two (2) years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant / government will request detention.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

1/10/07
Date

at

San Jose, California
City and State

Richard Seeborg
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: OLIVAS-Leyva, Felisardo A95 281 899

I am a Deportation Officer of the United States, Department of Homeland Security, Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

- (1) Mr. OLIVAS-Leyva is a 25-year-old male who has used five (5) aliases and two (2) dates of birth in the past:
- (2) Mr. OLIVAS-Leyva has been assigned one (1) Alien Registration numbers of A95 281 899, FBI number of 865564VB6, California Criminal Information Index number of A23541844, and a San Clara County Department of Corrections Personal File Number (PFN) of DVZ231.
- (3) Mr. OLIVAS-Leyva is a native of Mexico and a citizen of Mexico since birth. A check through Service records shows that he was arrested and deported on six (6) occasions from the United States.

<u>DATE</u>	<u>PLACE OF DEPORTATION</u>
August 20, 2002	Nogales, AZ
September 23, 2002	Nogales, AZ
March 7, 2003	Nogales, AZ
July 9, 2003	Nogales, AZ
March 22, 2004	Calexico, CA
October 17, 2004	Nogales, AZ

- (4) Mr. OLIVAS-Leyva last entered the United States at or near San Luis, AZ on or after October 17, 2004, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. OLIVAS-Leyva on a date unknown but no later than September 20, 2006, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after a prior arrest and deportation, without the permission of the Attorney General or the Director of Homeland Security, in violation of Title 8, United States Code, Section 1326. January 9, 2007, Mr. OLIVAS-Leyva was interviewed by Immigration Enforcement Agent (IEA) Carlos Ayala at the San Jose Main Jail, San Jose, CA and during that interview, Mr. OLIVAS-Leyva was advised of his **Miranda** rights in Spanish. Mr. OLIVAS-Leyva waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, but denied ever been deported. A sworn statement dated February 10, 2004, shows Mr. OLIVAS-Leyva admitted to prior removals and did not get permission from the Attorney General or the Director of Homeland Security to re-enter the United States. Mr. OLIVAS-Leyva refused to give sworn statement in the past.

RE: OLIVAS-Leyva, Felisardo A95 281 899

- (6) Mr. OLIVAS-Leyva was on June 13, 2003, convicted in the United States District Court, District of Arizona-Tucson, for the offense of UNLAWFULLY ENTER THE U.S. in violation of Title 8 USC, Section 1325, and was sentenced to twenty-five (25) days with credit for time served.
- (7) Mr. OLIVAS-Leyva was on February 13, 2004, convicted in the United States District Court, District of Arizona-Tucson, for the offense of UNLAWFULLY ENTER THE U.S. in violation of Title 8 USC, Section 1325, and was sentenced to forty (40) days with credit for time served.
- (8) Mr. OLIVAS-Leyva was on February 06, 2006, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of PETTY THEFT OF PERSONAL PROPERTY, a misdemeanor, in violation of Section 484/488 of the California Penal Code, and was sentenced to 5 days in jail.
- (9) Mr. OLIVAS-Leyva was on October 30, 2006, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of GRAND THEFT OF PERSONAL PROPERTY OF A VALUE OVER FOUR HUNDRED DOLLARS, a felony, in violation of Section 484/487 of the California Penal Code, and was sentenced to 1 year in jail.
- (10) Mr. OLIVAS-Leyva was on November 02, 2006, convicted in the Superior Court of California, in and for the County of Santa Clara for the offense of POSSESSION OF CONTROLLED SUBSTANCE, a misdemeanor, in violation of Section 11377(a) of the California Health and Safety Code, and was sentenced to 120 days in jail.
- (11) On the basis of the above information, there is probable cause to believe that Mr. OLIVAS-Leyva illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.



Trong Q. Nguyen
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 10th day of January, 2007



RICHARD SEEBORG
UNITED STATES MAGISTRATE JUDGE